

AND NOW, THIS 16<sup>th</sup> DAY OF  
June 06, IT IS HEREBY  
 ORDERED THAT THE WITHIN  
 MOTION IS DENIED.

IN THE UNITED STATES DISTRICT COURT  
 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

United States of America,

Plaintiff,

vs

Terrance A. Tarver,

Defendant

Criminal Action No. 01-36

MOTION FOR AMENDMENT OF JUDGMENT  
 PER Fed. R. Civ Proc. Rule 59(e),  
 &/or MOTION FOR NUNC PRO TUNC  
 ORDER TO CLARIFY JUDGMENT

GARY L. LANCASTER,  
 UNITED STATES DISTRICT JUDGE

Now comes the defendant (def't) & moves for a MOTION TO ALTER OR AMEND  
 JUDGMENT per Rule 59(e), FRCP &/or motion to clarify judgment per ORDER  
 Nunc Pro Tunc.

Per the record, the def't moved for "MOTION FOR ADJUSTMENT OF CONCURRENT  
 SENTENCE". This Court responded 5-30-6, which def't did not receive until  
 6-5-6 per Ex A, stamp from the BOP. Per Rule 59(e), "Motion to Alter or A-  
 mend Judgment, the def't has filed same by delivering it to "prison author-  
 ities", per Houston v Lack, infra, within this 10 day period. See Rule 59(e)  
 "... shall be filed no later than of days of the judgment". In addition per  
 the FRCP weekends are NOT included in this 10 day calculation. See Rule 6(a)  
 FRCP, "Computation". "In computing any period of time prescribed .. by these  
 rules ... the DAY OF THE ACT, ... of time begins to run shall NOT BE INCLUDED  
 ... When the period of time prescribed .. is LESS THAN 11 days, intermediate  
 Saturdays, Sundays ... shall be excluded in the computation."

Hence, per Court order (from the date of the journalization) which the  
 def't cannot ascertain, conservatively would be 5/31/6, for the 1st day  
 with 2 weekends, making the 10th day 6-13-6. Def't mailed same 6-9-6.

If the receipt date is used, per Ex A:6-5-6, the def't would have even  
 more time for a timely filing. Hence, per the record this filing is timely.